

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 4th day of August, (1988) 1998^(X)

BEFORE

THE HON'BLE MR JUSTICE R V RAVEENDRAN

H.R.R.P.Nos.74 & 262 of 1998

Between:

1. Mohammed Iqbal,
s/o late Abdul Sattar,
aged 40 years;
2. A.Akthar Begum,
w/o Mohammed Iqbal,
aged 31 years

Both r/a 58, Shivaji Road,
Shivajinagar, Bangalore-1

.. Petitioners

(By Sri R I D'sa, Advocate)

And:

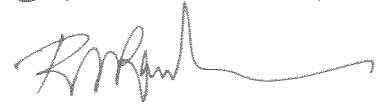
G. Kodandapani,
s/o late Gopalan,
aged about 45 years,
r/a 36 (formerly 12),
K. No.4th Street,
Makhan Road Cross,
Bangalore-1

.. Respondent

(By Smt Pramila Nesargi, Adv.)

H.R.R.Ps. are filed against the order dated 12-11-1997 passed in HRC No.10058/1996 on the file of the XIII Addl. Judge, Court of Small Causes, Bangalore, ordering that the parties shall adduce evidence separately and rejecting I.A.No.3 to modify the order dated 12-8-1997 respectively.

^(X) Corrected as per
Court order dt 13/6/2001



JUDGE

These HRRPs coming on for admission this day, the Court made the following:-

O R D E R

These two petitions under Section 50(1) of Karnataka Rent Control Act, 1961 ('Act' for short) are by the landlords — petitioners in HRC No.10058/1996 on the file of the Court of Small Causes, Bangalore.

2. The landlords filed 15 eviction petitions in respect of 15 tenements situated in a property in HRC Nos.10057-61 and 10086-95/1996. The landlords filed applications in all cases (except HRC No.10057/1996) for clubbing ^{Rem} with HRC No. 10057/1996. The trial Court accordingly directed that all other 14 cases be clubbed with HRC No.10057/1996 and common evidence in all the cases be recorded in HRC No.10057/1996. Accordingly, common evidence was recorded in HRC No.10057/1996.

3. As the respondent-tenant in HRC No.10057/1996 did not contest the matter, that petition, was allowed. HRC Nos.10059, 10086, 10087, 10094 and 10095/1996 were also allowed. The other cases are pending.

Rmr

4. On 12-8-1997, the Counsel for respondent in HRC No.10058/1996 stated that he was no longer appearing for the respondent in HRC No.10057/1996 and, therefore, separate evidence may be recorded in HRC No.10058/1996. On the basis of the said statement, the trial Court ordered that parties in HRC No.10058/1996 shall adduce evidence separately. Feeling aggrieved by the said order, the landlord have filed HRRP No.74/1998.

5. Subsequently, the landlord filed I.A.No.3 under Section 151 of the C.P.C. to modify the said order dated 12-8-1997 and to continue recording common evidence. That application has been rejected by the trial Court by order dated 12-11-1997. Feeling aggrieved by the rejection of I.A.No.3, the landlords have filed HRRP No.262/1998.

6. The learned Counsel for the petitioners stated that as common evidence has already been recorded in HRC No.10057/1996, the question of adducing fresh evidence in HRC No.10058/1996 did not arise.

RMR

7. The learned Counsel for the respondent stated that out of the 15 cases, 6 cases had already been disposed of and in 8 cases, the landlord had already reached negotiated settlement with the tenants and had taken possession and the only case that remains for consideration on merits is the case of the respondent in HRC No.10058/1996 and, therefore, the evidence should be recorded in HRC No.10058/1996.

8. If 6 out of 15 cases have been settled and if another 8 out of 15 cases have already been settled but not disposed of and the only case that requires to be considered on merits is HRC No.10058/1996, all that requires to be done is to treat the common evidence recorded in HRC No.10057/1996 as evidence in HRC No.10058/1996 and if the parties so desire permit them to lead further evidence. The question of recording the evidence already recorded in HRC No.10057/1996 again in HRC No.10058/1996 does not arise, as ~~such~~ common evidence was recorded in HRC No.10057/1996 in pursuance of an order made by the trial Court itself.

RMR

9. In view of the above, HRRP No.74/1998 is allowed. The order dated 12-11-1997 is set aside and the trial Court is directed to treat the evidence recorded in HRC No.10057/1996 as the evidence in HRC No.10058/1996, reserving liberty to the parties to let in further evidence, if any. As a consequence of allowing HRRP No.74/1998, HRRP No.262/1998 does not survive for consideration and it is rejected as having become infructuous.

Sd/-
JUDGE

Bnr/-